SUPREME COURT OF THE UNITED STATES.

No. 202.—October Term, 1925.

Charles C. Childers, State Auditor of the State of Oklahoma, Appellant, *vs.* John Beaver and Benjamin Quapaw.	Appeal from the District Court of the United States for the Eastern District of Oklahoma.

[April 12, 1926.]

Mr. Justice McReynolds delivered the opinion of the Court.

See-Sah Quapaw, a full-blood Quapaw Indian woman, died March 4, 1920. She owned certain duly allotted lands in Oklahoma, patented by the Secretary of the Interior September 26, 1896, and declared to be "inalienable for a period of twenty-five years" thereafter—all as provided by the Act of March 2, 1895, c. 188, § 1, 28 Stat. 876, 907. Following the State statute of descent, the Secretary declared that the only heirs were her husband and brother—John Beaver and Benjamin Quapaw—full-blood Quapaws. Act June 25, 1910, c. 431, § 1, 36 Stat. 855. *Henrietta First Moon* v. *Starling White Tail*, — U. S. — [March 1, 1926]. Restrictions upon the land were continued for another twenty-five years by the Act of March 3, 1921, c. 119, § 26, 41 Stat. 1225, 1248.

Apparently appellant supposed that the lands passed to the heirs by virtue of the laws of the State and were subject to the inheritance taxes which she laid. He accordingly demanded their payment of appellees and threatened enforcement by summary process and sale of the lands. The court below held that the State had no right to demand the taxes and restrained appellant from attempting to collect them.

The duty of the Secretary of the Interior to determine the heirs according to the State law of descent, is not questioned. Congress provided that the lands should descend and directed how the heirs should be ascertained. It adopted the provisions of the Oklahoma statute as an expression of its own will—the laws of Missouri or Kansas, or any other State, might have been accepted. The lands

really passed under a law of the United States, and not by Oklahoma's permission.

It must be accepted as established that during the trust or restrictive period Congress has power to control lands within a State which have been duly allotted to Indians by the United States and thereafter conveyed through trust or restrictive patents. This is essential to the proper discharge of their duty to a dependent people; and the means or instrumentalities utilized therein cannot be subjected to taxation by the State without assent of the federal government. *The Kansas Indians*, 5 Wall. 737; *Tiger* v. *Western Investment Co.*, 221 U. S. 286; *Choctaw, etc., R. R.* v. *Harrison*, 235 U. S. 292; *Hallowell* v. *Commons*, 239 U. S. 506; *Lane* v. *Mickadiet*, 241 U. S. 201; *Jefferson* v. *Fink*, 247 U. S. 288; *Blanset* v. *Cardin*, 256 U. S. 319; *United States* v. *Bowling*, 256 U. S. 484; *McCurdy* v. *United States*, 264 U. S. 484; *Sperry Oil Co.* v. *Chisholm*, 264 U. S. 488.

The decree below must be

Affirmed.

A true copy.

Test:

Clerk, Supreme Court, U. S.